

## LLOYD F. STEWART

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FEBRUARY 26 (legislative day, JANUARY 29), 1951.—Ordered to be printed

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Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany S. 300]

The Committee on the Judiciary, to which was referred the bill (S. 300), for the relief of Lloyd F. Stewart, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

## PURPOSE

The purpose of the proposed legislation is to provide for payment to Lloyd F. Stewart of Linton, N. Dak., the sum of \$44.83 in full satisfaction of his claim against the United States for refund of amounts deducted from his Army pay during World War I for application to the purchase of a \$50 Third Liberty Loan bond.

## STATEMENT

Lloyd F. Stewart served in the United States Army as a private between the dates of April 30, 1918, and January 28, 1919. He authorized deductions to be made from his pay for all of the period he was in military service at the rate of \$5 per month to apply toward the purchase of a Liberty bond. Such deductions were made during all of said period, amounting to \$44.83. Since the amount was not \$50 (the minimum of the Liberty Loan bond), a bond could not be issued to him. Apparently nothing was done by Mr. Stewart to gain possession of this money until on or about February 6, 1945. The General Accounting Office treated his claim as a claim for the refund of payroll deductions. As such the claim was barred by the statute of limitations which required that such a claim be filed within the period of 10 years after its accrual.

There appears to be no question but that Mr. Stewart has a valid claim for the amount of \$44.83, except for the running of the statute of limitations.

All statutes of limitations are, of necessity and by their very nature, arbitrary. Human experience has proven the wisdom of requiring that claims be asserted within a reasonable period of time, or be barred.

Otherwise, the complications of handling a few items, similar to this one and after the lapse of a period of over 32 years, are apparent.

The committee is of the opinion that, except in extraordinary cases, the statute of limitations should not be waived.

In view of the fact that the amount in question is actually the property of this claimant, and represents money deducted from his pay while in the military service of his country, this committee is of the opinion the Federal Treasury should not retain such money.

Attached hereto and made a part of this report is a letter of January 29, 1951, to the chairman of this committee, Hon. Pat McCarran, concerning this bill. Also attached hereto and made a part of this report are the two letters referred to in the above-mentioned Department of Justice letter, one being from the Army and the other from the Justice Department, each concerning S. 1999 in the Eightieth Congress.

DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, January 29, 1951.

Hon. PAT MCCARRAN,  
*Chairman, Committee on the Judiciary,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 300) for the relief of Lloyd F. Stewart.

The bill would provide for payment of the sum of \$44.83 to Lloyd F. Stewart, of Linton, N. Dak., in full satisfaction of his claim against the United States for refund of amounts deducted from his Army pay during World War I for the purchase of a \$50 Third Liberty Loan bond.

Under date of August 5, 1948, the Department of Justice submitted to the Senate Committee on the Judiciary its views on an identical bill (S. 1999, 80th Cong.), together with copies of the Department of the Army report thereon. In its views, the Department of Justice concurred in the Department of the Army statement, included in its report, that it preferred to make no recommendation concerning the bill but to leave the matter of relief in this case to the equitable determination of the Congress. According to informal advice received from the Department of the Army, the views of that agency have not changed with respect to this claim nor have any new facts been received concerning it. The views of the Department of Justice also remain unchanged from those set out in its report of August 5, 1948, a copy of which is attached.

The Director of the Bureau of the Budget has advised this Office that there would be no objection to the submission of this report.

Yours sincerely,

PEYTON FORD,  
*Deputy Attorney General.*

DEPARTMENT OF THE ARMY,  
Washington, D. C., June 2, 1948.

The honorable the ATTORNEY GENERAL  
Washington, D. C.

DEAR MR. ATTORNEY GENERAL: Reference is made to your letter with which you inclosed a copy of S. 1999, Eightieth Congress, a bill for the relief of Lloyd F. Stewart. You state that the Senate Committee on the Judiciary has requested the Department of Justice to submit a report on this bill and has advised that if reports are necessary from other sources they will be secured by your Department and submitted along with your report to the committee. You, therefore, request the comments of this Department on S. 1999.

This bill provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Lloyd F. Stewart (Army serial number 2858798), of Linton, North Dakota, the sum of \$44.83, in full satisfaction of his claim against the United States for refund of amounts

deducted from his Army pay during World War I for application to the purchase of a \$50 Third Liberty Loan bond."

Lloyd F. Stewart was inducted into the United States Army as a private on April 30, 1918, and served until his honorable discharge on January 28, 1919. The records of the Department of the Army show that a Class E allotment, otherwise known as a Liberty bond allotment, was authorized by Private Stewart and that deductions were made from his pay from May 1, 1918, through January 28, 1919, at the rate of \$5 a month, the last deduction being in the amount of \$4.83, such deductions aggregating \$44.83. A Liberty Loan bond could not be issued to him until deductions had been made from his pay in the total amount of \$50, and, therefore, he did not receive a bond. The evidence further establishes that the deductions made from Private Stewart's pay in the sum of \$44.83 have never been refunded to him.

On or about February 6, 1945, Mr. Stewart filed a claim with the General Accounting Office for the money so deducted from his pay. This claim was disapproved on the ground that it must be considered a claim for the refund or payroll deductions and as such was barred by the act of October 9, 1940 (54 Stat. 1061; 31 U. S. C. 237), which provides in effect that a claim cognizable by the General Accounting Office under section 305 of the Budget and Accounting Act of June 10, 1921 (42 Stat. 24), and the act of April 10, 1928 (45 Stat. 413), "shall be forever barred unless such claim \* \* \* shall be received in said Office within ten full years" after its accrual. There is, therefore, no statute under which Mr. Stewart may be reimbursed for the money deducted from his pay.

In view of the foregoing facts the Department of the Army prefers to make no recommendation either for or against the enactment of S. 1999 but to leave the matter of whether relief should be granted in this case to the equitable determination of the Congress.

Sincerely yours,

KENNETH C. ROYALL,  
*Secretary of the Army.*

DEPARTMENT OF JUSTICE,  
OFFICE OF THE ASSISTANT TO THE ATTORNEY GENERAL,  
*Washington, August 5, 1948.*

HON. ALEXANDER WILEY,  
*Chairman, Committee on the Judiciary,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of this Department relative to the bill (S. 1999) for the relief of Lloyd F. Stewart.

The bill would provide for payment of the sum of \$44.83 to Lloyd F. Stewart of Linton, N. Dak., in full satisfaction of his claim against the United States for refund of amounts deducted from his Army pay during World War I, for the purchase of a \$50 Third Liberty Loan bond.

In compliance with your request, a report was obtained from the Secretary of the Army concerning this legislation. That report, which is enclosed, states that claimant was inducted into the Army on April 30, 1918, and during the period April 30, 1918, to January 28, 1919, the date of his honorable discharge, a total of \$44.83 was deducted from his pay for the purchase of a \$50 Liberty Loan bond. However, since a bond could not be issued to him until such deductions equaled \$50, he did not receive a bond. The report further states that deductions made from claimant's pay had never been refunded to him.

A claim filed by Mr. Stewart with the General Accounting Office on February 6, 1945, for the amount so deducted from his pay was disapproved on the ground that the claim was not cognizable under existing law since it was more than 10 years old. There is no statute under which claimant may be reimbursed for the money deducted from his pay. The Department of the Army states that it prefers to make no recommendation either for or against the enactment of the bill but to leave the matter of whether relief should be granted in this case to the equitable determination of the Congress.

The Department of Justice concurs in the opinion of the Department of the Army.

The Director of the Bureau of the Budget has advised this Department that there would be no objection to the submission of the report.

Yours sincerely,

PEYTON FORD,  
*The Assistant to the Attorney General.*

